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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/436,219 11/09/99 NAGAE

A 104721

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PM82/1107

EXAMINER
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ALEXANDRIA VA 22320

BURCH M	
ART UNIT	PAPER NUMBER

3613  
DATE MAILED:

16

11/07/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/436,219

Applicant(s)

NAGAE ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4 is/are rejected.
- 7) ☒ Claim(s) 3, 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 5/17/01 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. The copies were not provided by Applicant.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent JP-937407 to Taga et al. (using U.S. Patent 5915801 as an English equivalent) in view of Harada et al. (JP 10-278762) (corresponding to U.S. Harada et al. 6081761 throughout the office action for column and line numbers). Taga et al. disclose a control device capable of being used for controlling an over-rolling of a vehicle having a vehicle body, wheels, a steering system, and a brake system, the device or brake controller comprising: a means for providing a first parameter quantity indicative of a variable amount of the vehicle or accelerator pedal angle signal for determining pedal

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position as labeled in figure 1, a means for providing a second parameter quantity of a change rate of a variable amount of a vehicle body or pedal releasing speed as disclosed in col. 7 lines 55-60, and a means for controlling the brake system such that a target deceleration occurs when the first parameter quantity exceeds a threshold value as inferred in col. 2 lines 38-42, the target deceleration being increased according to an increase of the second parameter quantity or accelerator pedal releasing speed as disclosed in col. 7 lines 55-60, but does not disclose that the device is used specifically for controlling vehicle over-rolling. Harada et al. teach in the last four lines of the abstract the use of a brake controlling device utilizing target deceleration control to prevent over-rolling of a vehicle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the target deceleration control associated with the first and second parameters of Taga et al. to have included the prevention of over-rolling of a vehicle, as taught by Harada et al., in order to provide a means of improving overall vehicle stability.

Re: claim 2. Taga et al., as modified, teaches a means for providing a first parameter quantity of a change rate of a rolling amount of a vehicle body or lateral acceleration. See Harada et al. col. 13 lines 48-51.

4. Claim 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent to Taga et al. and Harada et al. as applied to claim 1, and further in view of Ikemoto et al. Ikemoto et al. teach in col. 3 line 28 the use of the rate of change of the steering angle in the control of vehicle over-roll. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the

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second parameter quantity indicative of a change rate of the variable amount of the vehicle body of Taga et al., as modified, to have included a rate of change of the steering angle, as taught by Ikemoto et al., in order to provide an alternate parameter for triggering the necessary target deceleration control.

***Allowable Subject Matter***

5. Claims 3, 5, and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 2, and 4 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

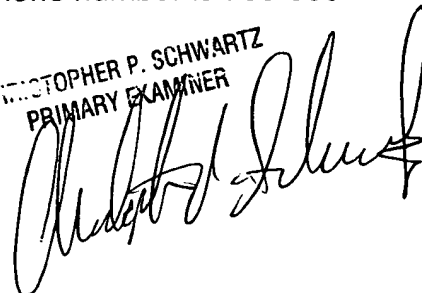
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Oberleitner can be reached on 703-308-2569. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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1. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Christopher P. Schwartz', is written over the printed name and title.

mmb  
November 5, 2001